IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No. 350 of 2006.

Decided on : August 23, 2006.

Smt. Vidya Devi **…..Appellant.**

VERSUS

Joginder Singh and anr. **…..Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?[1]

For the Appellant : Mr. V.K.Verma, Advocate.

For the Respondents :

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. Respondents are the sons of a brother of deceased Narain Singh, who was the father of the appellant. Respondents filed a suit claiming that Narain Singh had made a will in respect of the suit property in their favour and so they were the owners of the said property.

3. Defendant contested the suit. She denied that Narain Singh had made any will in favour of the respondents- plaintiffs. Trial court after trial of the case, came to the conclusion that Narain Singh had made a valid will, and consequently decreed the plaintiffs' suit. Appeal filed by the appellant in the court of District Judge against the decree of trial court, stands dismissed.

Whether the reporters of the local papers may be allowed to see the Judgment?

4. Now the appellant- defendant has come in appeal to this court. Learned counsel representing the appellant has submitted that the execution of the will is shrouded by suspicious circumstances. The main suspicious circumstance, according to him, is that there is an incorrect recital in the will, inasmuch as it is recited that the testator had no son or daughter, though the fact is that the appellant- defendant is his daughter.

5. I have gone through the judgements of the two courts below. It has been observed by the trial court that the appellant-defendant was taken away from her father's place, that is the place of testator Narain Singh, upon the death of her mother when she was only two or thre years of age and it were her maternal parents/ maternal uncles, who brought her up, arranged for her education and then married her off. Now, if the defendant had been taken away by her maternal grand parents when she was a small child of two or three years and they brought her up, arranged for her education and even married her off, the father cannot be faulted for his having got recited in the will that he did not have any son or daughter. The will had been got registered. The testator was identified before the Sub-Registrar by a leading Advocate of the place, i.e. PW 2 Keshev Ram Kashyap. Under these circumstances, I do not find any fault with the finding of the two courts below that the will is genuine.

6. No substantial question of law arises. Hence the appeal is dismissed.

August 23, 2006. **(Surjit Singh)**
(Hem) **Judge.**